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# Safety or Morality? How Moral Framing Influenced FOSTA-SESTA's Bipartisan Success

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# **Safety or Morality? How Moral Framing Influenced FOSTA-SESTA's Bipartisan Success**

By

Raven Mann

A Major Research Paper  
Submitted to the Faculty of Graduate Studies  
through the Department of Political Science  
in Partial Fulfillment of the Requirements for  
the Degree of Master of Arts  
at the University of Windsor

Windsor, Ontario, Canada

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# **Safety or Morality? How Moral Framing Influenced FOSTA-SESTA's Bipartisan Success**

by

**Raven Mann**

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May 1<sup>st</sup>, 2020

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## ABSTRACT

FOSTA-SESTA is an anti-trafficking bill which was passed in April 2018. The bill which amends the Communications Decency Act redefined the discussion of anti-trafficking in the United States due to the controversy surrounding this bill. Concerns from sex workers and feminist activists highlighted that FOSTA-SESTA would endanger sex workers by eliminating the commercial sex websites they used and force them back onto the streets. Despite these critiques drawing attention to the lack of consideration for sex workers' safety in this bill, FOSTA-SESTA received bipartisan support and passed with a vote of 97-2.

Bipartisan support for legislation is an uncommon sight in the US political sphere and this factor is worthy of consideration when looking at how this bill with so much public backlash received almost unanimous support in the House. This paper looks at the influence of religiosity and moral framing as an explanation as to why FOSTA-SESTA was met with bipartisan support. Since morality politics has played a role in influencing other gendered issues in the US, such as abortion, this study intends to illuminate how morality places a role in anti-trafficking debates in the US.

By using a feminist discourse theory analysis, findings show that moral framing was heavily used during Congressional statements and Legislative debates. The findings show the influence of religious morality on anti-trafficking debates, as well as the use of victimizing language, were a strategic political language tool shift the issue of sex trafficking from a gendered issue to a gender-neutral issue.

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## CHAPTER 1. INTRODUCTION

In 2018, the US Federal government passed a controversial piece of legislation redefining the relationship between sex work and the online community. The bill known as FOSTA-SESTA<sup>1</sup> was introduced to Congress in 2017 by Senator Rob Portman (of the Republican party) to combat online human trafficking and assure legal liability for websites which allowed for the facilitation of human trafficking (*H.R.1865 - Allow States and Victims to Fight Online Sex Trafficking Act of 2017*). The history of this bill stems from legal action taken in *Doe v. Backpage LLC* (2017), in which several anonymous women took legal action against the web-domain Backpage for facilitating their trafficking. The plaintiffs charged Backpage for violating the Massachusetts Trafficking Victims Protection Reauthorization Act of 2008 and argued it should be legally liable for the content posted on their website (*Doe v. Backpage LLC, 2017*). The court ruled against the plaintiffs, in this case, citing the protection of Section 230 under the Communications Decency Act (*The Communication Decency Act of 1996*).

The Communications Decency Act is the current standing legislation in the United States to address indecent content on the internet, specifically addressing the issues of minors accessing pornography. Section 230 of the Communications Decency Act absolves websites from the accountability for what is posted on their domains, stating that website operators should not be confused with publishers. FOSTA-SESTA was introduced by Senator Portman to amend this loophole and to uphold a legal liability to website operators for content that may be promoting human trafficking. Senator Portman stated that FOSTA-SESTA would take a direct stance against websites such as Backpage for the role they play in facilitating human trafficking. The bill gained a large amount of public support from politicians, NGOs, and various other public

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<sup>1</sup> The full title of this bill is the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) and Stop Enabling Sex Traffickers Act (SESTA)

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figures (i.e. Celebrities) for taking a stand against the trafficking of humans. However, FOSTA-SESTA notably gained a large amount of negative attention from sex workers and feminist activists for how this bill would affect sex workers. Despite facing criticism from sex workers and pro sex-work activists, FOSTA-SESTA passed through the Senate with strong bipartisan support, with a vote of 97-2.

There are a variety of reasons why FOSTA-SESTA's bipartisan support – which in the current polarized state of the US Congress is quite unusual in and of itself – has come under criticism, including obstructing freedom of speech. The overwhelming objection to the bill comes from the lack of consideration of how FOSTA-SESTA will affect the *safety* of sex workers who use online platforms. The relationship between sex workers and the US government has a history of stigma and criminalization that pre-dates the success of FOSTA-SESTA. However, FOSTA-SESTA is the first piece of legislation to obstruct sex worker's ability to ensure a safe work environment at a national level (Polich, 2019). The overwhelming concerns regarding the lack of safety for sex workers (and other flaws of FOSTA-SESTA) were consistently brought to the attention of House and Senate members through various activist groups but were unsuccessful in swaying the opinions on either side of the political spectrum. With testimonials claiming that FOSTA-SESTA would only increase unsafe environments for sex workers and ultimately increase human trafficking, the question of how this bill found bipartisan success is important to consider. Bipartisan success on social policies is not often seen within the United States, so what were the influencing factors that contributed to an almost unanimous agreement?

The role of morality politics, and more specifically religious morality, has had a great impact on various social policies within the US political system. Hannah Armitage (2010)

elaborates on the role political language has on influencing controversial policies in the US (specifically examining the relationship between political language and abortion debates). This analytical lens holds much promise in helping us understand the bipartisan success of FOSTA-SESTA and to illuminate specifically how strategic political language was used during the legislative debates of FOSTA-SESTA.

This paper explores the relationship between religious morality and political language strategies in the United States and how these factors influenced the success of FOSTA-SESTA. The disconnect between politicians and sex workers in the US has come into the spotlight with the passing of this legislation and has raised concerns regarding politician's awareness of the lived realities of women working within the sex industry. Explored through a feminist lens of constructivism, this paper examines how the notion of oppression paradigms (Weitzer, 2011) creates the narrative of sex workers as *victims* who need saving and how this pre-conceived notion translates into policy. While human trafficking includes a variety of forms of the selling of human beings, with a diverse range of victims, this paper specifically focuses on sex trafficking and how policies affect female victims and female sex workers. The reason for this focus is because human trafficking in North America predominantly affects women from ages 18-24 (Polaris, 2018). However, this paper acknowledges the validity of the experiences of all victims of human trafficking, regardless of gender.<sup>2</sup>

### ***Organizational Review***

This paper begins with a literature review exploring various theoretical and practical understandings of the relationship between morality politics and anti-trafficking/sex work laws in the United States. Firstly, an exploration of the concept of morality politics and how it is

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<sup>2</sup> Other common forms of human trafficking include labour trafficking, drug trafficking, and organ trafficking.

applied in the policy process will be utilized as the main school of thought to guide this research paper. This section also includes an examination of religiosity in the United States and an exploration of feminist ethics. Second, this paper reviews past laws and legislations regarding sex work and anti-trafficking in the US and how this has affected the relationship between sex works/trafficking victims and politicians. Finally, the literature review concludes with an exploration of oppression paradigms and the role strategic political language has in influencing controversial (or taboo) policies in the United States – with a second-tier focus on abortion rights and various other policy issues which predominantly affect women.<sup>3</sup>

Once a literature-based context has been established for this paper, a constructivist approach founded from the literature will be used to help guide the research to understand the historical contexts for why negative attitudes surrounding sex work exist, and how these translate into policy – relying on the persuasion mechanism of constructivism. This approach informs the content analysis of the Legislative debates and Congressional records for FOSTA-SESTA, which aims to show how Representatives supporting this bill used strategic political language to create a biased narrative of the sex industry. The findings of the content analysis set the stage for a discussion of how politicians can exploit emotional triggers and preach a sense of religious morality to sway public opinions on taboo topics, such as sex work. The goal of this study is to find the connection between the religious moral framing of sex work and how it has manifested itself into policy decisions with drastic consequences for those they are attempting to protect.

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<sup>3</sup> The reason for this second-tier selection is to understand how morally based language has affected other gendered issues in the United States.

## CHAPTER II: LITERATURE REVIEW

### *Understanding Morality Politics*

An analysis of literature will be divided into distinct schools of thought in order to effectively frame this research design. There has been a substantive contribution to understanding how social attitudes around sex work influences human trafficking policy in the United States from a more general sense. For the sake of this topic, it is important to understand how the framing of policy influences its success rate. Donald Schön and Martin Rein have contributed substantially to the literature regarding the framing of controversial or "problematic" policy and the conflicts that arise from said framing. Schön and Rein (1996) identify that there are several ways to view the framing of a policy but what they all have in common is an "assumptional bias" that is used as a mechanism for constructing rhetoric that is beneficial for the policy's end goal. They emphasize the role of "rhetorical frames" and "action frames". Rhetorical frames are based around existing pieces of evidence on a specific topic to build a policy frame that suites the issue, while action frames are built around observation patterns (Rein et al. 1996). A significant piece of information provided by Schön and Rein is that "all frame narratives are diagnostic and prescriptive" (1996). This implies that framing should be able to identify a problem and a solution and becomes significant when a policy framing then becomes controlled by a narrative or point of view. How a policy is framed plays a large role in the impact and success of a piece of legislation.

Frame-critical policy analysis (Rein et. al 1996) provides a theoretical framework for understanding the impact of controversial policies. Through this, we can also understand how to reframe policies that are understood to be problematic. While controversial policies and policy disputes are a normal factor of the democratic process, it is important to understand competing or

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contradicting frames - this includes but is not limited to personal opinions or support from interest groups (Rein et al 1996). Martin Rein (2011) contributes to this school of thought regarding controversial framing of problematic policies by acknowledging that ambiguity and the conflict of values play a heavy role in the construction and execution of a policy. Rein suggests that to avoid the vagueness that is often found in problematic policies, a reframing process must be conducted to eliminate any ambiguity that can lead to broad assumptions regarding controversial topics. Policies that address taboo or controversial topics are often guided by a "values" system, which is often guided by the concept of equality (Rein, 2011). However, equality can be interpreted in several different ways and needs a lot of specifications when being addressed in a policy. Rein also acknowledges that a large majority of policy addressing controversial topics has a great deal of vagueness and ambiguity to them. This finding is incredibly beneficial to this research topic because it provides insight into the detrimental consequences of how a policy operates when passed (ex. Causing more harm to the community the policy is trying to protect).

A central school of thought that will greatly guide this research design is the concept of morality policy. Scholars Christopher Knill, Christopher Mooney, and Robert Schuldt contribute to the literature on this topic by analyzing how this concept influences policies that are deemed to be "moral issues" (ex. Abortion, euthanasia, same-sex marriage, etc.). The defining factor in categorizing a piece of legislation as a "morality policy" comes from how citizens feel about the specific topic (Mooney, 1999). As described by Christopher Knill "societal value conflicts shape political processes rather than diverging material interests" (Knill, 2013). A level of public consensus on a topic must be considered by the researcher to gauge how a politician may have exploited an emotional connection to sway public perception (Knill, 2013). There is a concept of

"moral shock" that is tied to religiosity and religious values, especially in countries like the United States that governs social values and how citizens and governments interact with controversial topics (Knill, 2013). The aforementioned scholars on morality policy provide an understanding of how morality policies not only generate tensions in the political sphere, but policymakers are also unwilling to compromise their points of view on the topics. The consequences of morality policy often fall on the victims that the policy aims to "protect" due to being construed by a political agenda (Mooney et al. 2008). However, the study of morality and ethics shows that there are several understandings of morality based on the outside influences of people's lives. A multitude of scholars have drawn attention to the relationship between US politics and religiosity, and how this relationship defines and sets the tone for taboo policies; this will be discussed later on in this section.

### ***The Role of Religion and Moral Framing in US Politics***

Religion plays a large role in how individuals set their moral standards at a personal and political level. While a set religion may not govern moral values, certain religious ideologies (or "lessons") may influence the political culture of a region (ex. Patriarchal values may be more prominent in southern states). The more devout a citizen is the more likely they would oppose a "life or death" bill – abortion or euthanasia for example (Buddle & Knill, 2018). Regarding the United States, Mooney elaborates in their book on the unique history of religion in the political sphere. While the United States formally does not allow for religious influence, the culture of the nation dictates differently. The post Civil War environment created two distinct cultures within the US, pockets of Liberal, secular societies, and regions that upheld traditional religious values. The spread of secularism following World War II – which grew to its peak during the 1980s – only furthered this divide amongst Americans (Mooney, 2001). Following the election of George

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W. Bush (2001), Mooney identifies that “issues of sin” (pg 38) became more visible within the public sphere. This resurgence of religion within the political discourse has allowed religious groups to leverage the debates on morality policies within the public realm (Mooney, 2001). However, with these religiously fueled debates gaining more public recognition, how are these ideologies able to infiltrate the Senate and other formal bodies of government? Larson et. al (2013) evaluated how morality policy and religion can intersect during the policy process. They ultimately found that certain political systems choose to politicize religious values on morality policies – identifying that the presence of religion is not the issue but, the institutionalization of religion breeds tension within policy circles (Larson et. al, 2013).

In the case of the United States, the institutionalization of religion comes in the form of legitimizing powerful religious groups. For example, politicians who accept donations from religious organizations are more likely to align their views with said donors (Mooney, 2001). While politicians may accept monetary support from religious groups, and participate in public events which legitimize their role in a public political sphere, how does this support translate into the support of morality policies?

Buddle et. al (2018) tested multiple hypotheses on the relationship between the state, religion, morality policy, and the religious affiliation of citizens, concluding that if one-fifth of a nation's population aligns with a denomination, this often translates into a religious influence on morality policy. Public support for or opposition to morality policies often translates heavily into how successful said policy is, however some scholars argue that there is a considerable influence of “self-interest morality” in regard to support from religious individuals (Voert et. al, 1994, pg 304). Self-interest morality can be understood as a moral stance to protect individuals' own personal gain/motives. While it would be difficult to measure self-interest morality at the



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individual level, it can be assumed that politicians are more likely to hold a religiously aligned – or influenced – view regarding morality policy, which stems from self-interest (ex. public approval in electoral districts with devout voters, dependent on donations from religious organizations, or if said politician or party has ties to religious organizations).

Elaborating more on how the institutionalization of religion within the US political system has specifically affected the approach toward gender and sexuality, Elizabeth Bernsten and Janet Jakobsen (2010) research how religious groups have entrenched themselves within the US political system and policy process, and how this relationship has had negative effects for gender and sexuality issues on a global scale. Focusing on the construction of the "New Right" in the 1970s and the alliances built between the Republican party and various Catholic organizations (paying close attention to the weaving of prominent religious figures into the George W. Bush administration), rhetoric regarding issues of gender (ex. abortion) were more commonly addressed by the federal government in comparison to previous Republican leaderships (Bernsten & Jakobsen, 2010). This foundation of religious morals within the government which were slowly established through the 1990s (coming to a peak with the George W. Bush presidency) left a lasting impression on how issues of gender and sexuality are discussed within political institutions and the United States as a whole.

Despite the election of a democratic candidate in 2008, these religious ideals were still entrenched in political discourse surrounding morality politics and issues of gender (Bernsten & Jakobsen, 2010). This can especially be seen in how the narrative around anti-trafficking efforts shifted as religious figures gained more of a political voice. Throughout the 1990s, various NGOs advocating for anti-trafficking initiatives focused awareness to all forms of labour exploitation, encompassing a large scope of forms of human trafficking outside of sexual

exploitation. However, religious groups redefined the issue of human trafficking under the label of "modern slavery" which heavily focused on the sexual exploitation of women and girls, and included prostitution and other forms of sex work under this definition (Bernsten & Jakobsen, 2010). Bernsten and Jakobsen identify that this shift in language driven by religious political organizations in the US stemmed from "masculinist institutions" which perpetuate religious ideals of women's sexual modesty and the patriarchal role to protect said virtue.

Yet tracing the development of anti-trafficking policies also allows us to look at what the participants in this alliance share: a constellation that includes a sexual politics that is premised upon amative, egalitarian heterosexual relations between women and men and enhanced male participation in the domestic sphere, coupled with strong advocacy for "masculinist" model of state intervention that is premised upon militarised humanitarianism and carceral paradigms of justice

While the influence of religiosity can be seen within the policy process concerning the public reactions of politicians and religious groups, what can be said about the influence these to bodies have regarding how these policies are framed, and how the general public reacts to said framing? Specifically addressing attitudes surrounding anti-trafficking policies and other policies deemed "women's issues", religious actors have played a pivotal role in how these issues are framed and addressed at the political level. The religious shift on anti-trafficking policy was established during the George W. Bush presidency in 2001. This transition altered the discourse regarding human trafficking and created an arguably hostile stance on how US policy should address this issue. As discussed in the previous section, Bernstein and Jakobsen (2010) provide an introduction to how religious actors shifted anti-trafficking discourse to an issue of gender in the early 2000s.

Yvonne Zimmerman (2010) provides a broader context to how religious interest and rhetoric allowed for the systemic incorporation of religious actors into anti-trafficking initiatives. Prior to the George W Brush presidency, the standing anti-trafficking bill in the United States

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was the Victims of Trafficking and Violence Protection Act (TVPA) which was established in 2000 by President Clinton (Zimmerman, 2010). The TVPA was recognized as a comprehensive anti-trafficking bill as it highlighted the need for social services and protection for trafficking victims, as well as not infringing on the immigration status of said victims (Zimmerman, 2010).

The significance of TVPA comes in the latter clause regarding immigration. Many notable European anti-trafficking bills do not protect the victim's immigration status and often return them to their home country. The issue with this clause is that many victims of trafficking are attempting to leave their home countries for a variety of reasons (ex. Safety or better work opportunities) (Zimmerman, 2010). The TVPA stood as one of the first anti-trafficking policies of its time which protected the victim's immigration status and allowed them to stay in the United States if they wished (Zimmerman, 2010). However, this – and many other aspects of the TVPA – were contested after the election of George W. Bush.

Zimmerman draws attention to how the implementation of President Bush's Faith-Based and Community Initiatives allowed religious groups to seize control of the discourse regarding anti-trafficking programs (Zimmerman, 2010). The Faith-Based and Community Initiatives program awarded Federal grant money to religious organizations involved in social objectives, giving many of these organizations the platform to utilize religious rhetoric in discussions of anti-trafficking. Zimmerman states that many members of religious groups advocating against human trafficking who received federal funding were found on record making claims such as "...prayer is the ultimate anti-sex trafficking program" and "God is the most effective weapon against the slave trade". These groups steered the conversation of anti-trafficking to be seen as issues of sin and resulted in harmful policy recommendations. These policies were identified by

the United Nations as being ill-equipped to enforce anti-trafficking strategies (Zimmerman, 2010).

The literature also shows that anti-trafficking is not the only predominantly gender-based policy issue where terminology and reframing have shifted attitudes. Hannah Armitage (2010) explores how the reframing of "dilation and extraction abortion" to "partial-birth abortion" reopened the abortion debate in Congress. By using emotive language which did not shed light on the technical and rare nature of this procedure, Representatives and anti-abortion lobbyists were able to shift the abortion debate and redirect the public's attention. Armitage illustrates how terms such as "partial-birth" were political constructs not used within the medical field but were still able to dominate the discourse on abortion. By shifted the language away from medical terminology and switching the language from "fetus" to "baby", religious lobbyists and House Representatives were able to harness public support for a ban on dilate and extraction abortion despite the terminology used painting a false image of the reality of said procedure. From this, Armitage concludes that regarding morality policies "whoever frames the question wins the argument" (Armitage, 2010). The statement can be used to understand policy framing for a variety of contentious issues in US politics. The discourse which is used to frame a policy issue often dominates debates, thus influencing policymakers and the general public. For further understanding of how policy framing influences how the general public perceives a policy issue, Paul Brewer (2003) provides insight into how framing and the value of words influence citizen's perceptions of political issues. Regarding anti-trafficking, this concept was solidified in this debate becoming a pillar for anti-prostitution efforts in the United States (Zimmerman, 2010; Chuang, 2010).

### ***The War on Prostitution***

The significance of religious framing of anti-trafficking policies results in poor policy decisions for the individuals whom these legislations are supposed to protect, however, this paper acknowledges the role that abolitionist feminists played in the shift of anti-trafficking policy frames becoming an avenue for anti-prostitution policy. Scholars such as Janie Chuang (2010) highlight how religious groups and abolitionist feminist groups<sup>4</sup> worked together to solidify an anti-prostitution stance in anti-trafficking policies. The redefining of anti-trafficking policy in the United States has been described as a "War on Prostitution" by scholars such as Joseph Dunne (2012). Dunne argues that the efforts to define trafficking in US policy has become an ideological crusade against the sex industry due to the external influence of interest (religious) groups. The over-fixation on sexual exploitation shifts the focus away from the other forms of trafficking which are equally as rampant as sex trafficking and creates policies that rely on the criminalization of sex workers (Dunne, 2012).

Many scholars have highlighted the historical criminalization of sex workers that has stemmed from the religiosity shift in anti-trafficking policy (Barnard, 2014; Snajdr, 2013; Wagenaar, 2017). The overwhelming consensus found that the majority of anti-trafficking legislation in the US targets sex workers as facilitators of sex trafficking, when typically, they are at the highest risk to be victimized (Snajdr, 2013). Barnard provides insights into the criminalization of both sex workers and victims of human trafficking, creating a cycle of victimization. The after-effects of the detention system on both trafficking victims and sex workers seeking different forms of aid after being vacated from their convictions creates a cycle of victimization through the dehumanization and de-legitimization of their experience by the legal officials they encounter (Barnard, 2014). This is confirmed by Jennifer Nam (2007) who

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<sup>4</sup> Abolitionist feminist groups are pockets of feminists who advocate for the abolishment of sex work, stating that it oppresses women (Chuang, 2010)

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discusses the lack of legal cases opened by victims of sex-trafficking after the United States passed legislation that allowed for legal aid and civil relief for victims who wished to press charges against their traffickers. This literature provides insight into the further criminalization faced by trafficking victims if they are unsuccessful in their legal battles; consequences typically including denial of immigration status for victims who have been trafficked from other countries (Nam, 2007).

Further evidence of the criminalization and systemic harassment faced by sex workers can be found in the ethnographic study conducted by the Open Society Foundation (2012). The study found that anti-trafficking policies directly affected sex workers by increasing their risk for police harassment and affecting their safety. For example, women who were interviewed stated that they no longer carried condoms when soliciting due to it [carrying condoms] being grounds for interrogation by law enforcement under the suspicion of soliciting sex (Open Society Foundation, 2012). Outreach workers who provide health exams, contraceptives, and other forms of health services for sex workers have also said they face police harassment due to anti-trafficking policies that criminalize sex workers.

An exemplary model of how legislations similar to FOSTA-SESTA operates in countries that have implemented similar bans, Gabriella and Roberto Scaramuzzino (2014) provide an analysis of the outcomes of sex work criminalization in Sweden – specifically looking at the implications of banning the purchase of sex on digital platforms. The article analyzes the "claims making" process between citizens/users of the internet and the Swedish government and the different models suggested regarding how the state should handle legalized prostitution. Scaramuzzino concludes that the Swedish model, which currently criminalizes the buyers,

creates an unsafe environment for sex workers as the claims-making process stigmatizes sex workers by impeding rather than helping (Scaramuzzino, 2014, pg 13)

### ***Oppression Paradigms and the Cycle of Victimization***

With overwhelming evidence to show the consequences of social attitudes on anti-trafficking policies, the question then shifts to understand how these harmful policies driven by religious morality continue to find success in both the Senate and Congress. Ronald Weitzer (2011) suggests that United States policymakers have stuck themselves in an "oppression paradigm", viewing sex workers as victims and letting that narrative control their decisions on legislation. Weitzer theorizes that the oppression paradigm can be used to understand how attitudes around sex influence policy on human trafficking. The concept of oppression paradigms aligns with the constructivist approach in providing an understanding of how social attitudes affirm themselves in and in turn shape policy. The concept of "cultural blinders" can also be understood as a result of oppression paradigms, as discussed by Amy Ferrell and Rebecca Pfeffer (2014). Ferrell and Pfeffer's study addresses how these cultural blinders create a bias in police services identifying different forms of human trafficking. This can be attributed to the oppression paradigm because police services use sexual slavery as the main lens through which to view trafficking and overlook other forms of exploitation from being identified as 'trafficking'. This ultimately leads to a skewed perception of trafficking, as well as a gap in victims receiving aid from social services. Alicia Peters (2013) also discusses the categorization of "sex" and "non-sex" trafficking in The Trafficking Victims Protection Act. Both articles speak to the assumptions made around sex and gender and how these ideas translate into policy. The oppression paradigm functions for both anti-trafficking laws and anti-prostitution laws (Weitzer, 2011). Sentiments that support a narrative affirming the deviant nature of prostitution have led to

the drafting of policy that limits sex worker's employment and ultimately puts their health and safety at risk due to assumptions of ill-morality (Saunders, 2004).

*The Language of 'Victim' and 'Victimization'*

When reviewing the construction of language and policy problems, it is important to recognize how the use of the word 'victim' can contribute to moral frameworks. To many individuals, referring to those who have experienced any sort of trauma as a 'victim' is a common practice. Feminist scholars have noted that there is a certain progression that specifically women who have faced sexual violence must endure to be seen as a survivor rather than a victim (Jordan, 2013). We can relate this to Weitzer's 'oppression paradigms' in which women are often treated in a cycle of victimization, and not given personal autonomy to identify with their trauma. Marilyn Nissim-Sabat (2009) argues in their book that humans have constructed categories that "describe and explain that suffering" (Nissim-Sabat, 2009). These prescribed categories are used at a societal level to understand or "rank" the level of trauma a person has experienced and the level of 'blame' they should face. For example, Nissim Sabat makes the argument that those who fall victim to a natural disaster will face less public blame in comparison to a woman experiencing domestic violence. However, the issue with this concept of social ranking (along with its many other issues) is the overwhelming influence of capitalist individualism that states that victims of trauma have to hold some level of responsibility for what they have faced, and as stated by Nissim-Sabat, gender plays a large role in that level of responsibility (Nissim-Sabat, 2009). This ideology ultimately places an assumption that all women that face trauma (ex. Domestic violence, sexual violence) have the same emotional and environmental experiences and are therefore treated as a similar unit. This idea of women as the



'victim' sparked a large amount of third-wave feminist literature on the 'victim/survivor' dichotomy.

As stated earlier, feminist scholars have argued that many women who experience forms of sexual violence are expected to progress through a linear path to be seen as a survivor rather than a victim. There is a level of action that the titled 'victim' is expected to take to transition to a survivor. This includes things such as attending a therapy group or seeking legal action against their assailant (Jordan, 2013). This shift illustrates that the 'victim' is no longer 'passive' and is, therefore, able to assume their status as a survivor of trauma (Jordan, 2013). Relating to Weitzer, this ideology keeps women stuck in this role as a 'victim' until showing that she has proven to others that she is not. This also places total responsibility on the victim to 'prove' that they are no longer defined by this trauma. Feminist scholars such as Spry (1995) and Ovenden (2012) theorize that there is a patriarchal influence that facilitates this dichotomy. Spry argues that the female body is historically a cultural symbol and that acts of sexual violence disrupt the social image of purity that is forced upon women. Therefore, unable to meet the previous image, they must now align with the title of the 'victim'. (Spry, 1995). Spry refers to the victim/survivor dichotomy as hegemonic linguistics that is rooted in a patriarchal obligation to define women's experiences. Ovenden theorizes that this relationship of victim/survivor has only contributed negatively to the experiences of women who have experienced trauma. This takes into account the second wave of trauma experienced by women when they have to re-disclose their abuse repeatedly, forcing them to relive their trauma (Ovenden, 2012). Ovenden also discusses the impact "survivorship" has on women by making them feel that there is a "correct" way to process their trauma. She argues that the shift to a "recovery model" has only made survivors responsible for their healing (Ovenden, 2012). Ultimately, feminist scholars have argued that there are many

gaps in the victim to survivor pathways that ignore the autonomy of women who have experienced sexual violence.

### *Understanding Partisanship*

The cultural blinders and oppression paradigms discussed earlier can be helpful to understand the theoretical reasons why bills such as FOSTA-SESTA were greeted with almost unanimous success but, how can said unanimity itself be understood? In a time of historically high partisanship in the United States, it is a rarity to see legislation met with agreement by both parties (Lee, 2009). Frances Lee (2009) theorizes that the reason conflict between parties has increased is due to both ideological differences and party teamwork. Lee defines party teamwork in his book as similar to 'group think', meaning that politicians will typically vote in favour of a bill if a majority of the party supports it. "With respect to votes in Congress, a researcher must be able to specify...which is the more Conservative or Liberal position on the issue" (Lee, pg 49). This quote can be interpreted as understanding that parties typically have a set belief system on certain issues, for example, the Republicans are typically pro-life while Democrats are pro-choice. Lee expands on this statement in his book by explaining that as time has progressed and social attitudes have changed, partisanship has continued to increase. As politics becomes more ideologically driven, there is more pushback from politicians to align with said ideologies (Lee, 2009). This ideological obligation taken on by both parties has created a political environment where partisanship has become mandatory.

So how do we understand partisanship and its relation to FOSTA-SESTA? As discussed by Erikson et. al (1989), the tension between parties specifically to 'left-wing policies' was accelerated in the 1980s in relation to electoral politics. This tension surfaced due to skepticism regarding the policy consequences of leftist policies and party control (Erikson et.al, 1989). As

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Cold War tensions still ran high during this time, the rejection of leftist policies was rampant. This began to define the political culture and values of US politics, specifically value priorities. Edward Carmines and Geoffry Layman (1997) make the argument that many Western countries have shifted value priorities for policy to a diverse market which includes environmental protections, women's rights, and control of nuclear weapons. However, Carmines and Layman make the argument that the United States has lagged behind other Western nations in making this transition, staying focused on material economic goals. Data from the late 1980s and 90s show the consensus between parties having similar value priorities regarding economic goals but, as time progressed there was a shift in values between the Republicans and Democrats. Democrats began shifting their lens towards the 'postmaterial' noneconomic values which sparked the tension between the two parties, as Republicans saw these policy issues as non-essential or against their core belief systems (religiosity) (Carmines & Layman, 1997). Representatives on both sides of the political spectrum began voting patterns that aligned with party belief systems rather than the facts of an issue. Carmines and Layman argue that the priority between parties became 'Maintaining Order in the Nation' (Carmines & Layman, 1997). This narrative of 'American Values' seeped into the zeitgeist of politicians as voting patterns became more and more ideologically driven. These value priorities have created the new norm of political culture within the United States have dictated the relationship between gender issues and public policy for decades.

In order to understand the current state of partisan relations in the US Congress, Andris et. al (2015) researched how often representatives form ideological relationships with opposing party members, and what facilitates these agreements. Andris notes that one of the reasons opposing party members form these relationships is a result of cosponsoring bills and interacting

with lobbyists when similar interests are involved (this can be seen with FOSTA-SESTA).

Andris et. al refers to this relationship as “cooperator pairs” (pg. 3), meaning representatives that frequently cross partisan lines when voting. Andris et. al states that cooperator pairs (and super-cooperative pairs – Congressmen/women that frequently work together and vote in support of each other) can be credited with establishing any bipartisan patterns in US politics. The article ultimately states that if a bill has cooperator pair co-sponsors, it is more likely to receive bipartisan support. However, the article notes that common cooperator pairs and trends of cooperation (bipartisanship) have been on the decline throughout the latter half of the 20<sup>th</sup> century (Andris et. al, 2015).

In order to better understand the relationship between religion, morality, and partisanship, a complementary hypothesis to help is provided by Michele F. Margolis (2018). As issues of identity become an increasing factor in determining partisanship and voter behaviour, Margolis extends the analysis by illustrating how religion influences partisan decisions (Margolis, 2018). Margolis makes the argument that religion has become an aspect of social identity in the United States, and has therefore influenced partisanship. However, regarding certain issues, these social identities may be a stronger influence than partisan loyalties (Margolis, 2018). Margolis expands on this argument through Hillygus and Shields' (2005) article which discusses how religious morality reignited the same-sex marriage debate in the United States, which blurred the lines of partisanship and emphasized ‘moral values’. These articles support the idea that bipartisan agreement is possible in the cases of strong social identities, surpassing partisan loyalties.

### ***Discourse Theory and Feminist Discourse Analysis***

Discourse theory provides an avenue for the exploration of language – specifically allowing researchers to understand the social context of text. Discourse scholars Phillips and Hardy (2002)

describe this theory as a method to understand social constructions. Discourse theory argues that "discourse does not occur in a vacuum" meaning that there are a variety of social and societal factors that scholars should consider when analyzing text and the context in which said text occurs (Phillips & Hardy, 2002). In the case of politics, actions are calculated to send a message or achieve a policy result. Referring back to the Armitage literature, the language of partial-birth abortion was strategically used in order to elicit an emotional reaction which would then result in the desired policy action. Discourse is not simply just the way something is framed, but the intention of what this framing wants to achieve. The language used in framing is meant to serve a purpose and deliver a message on exactly how the government views a certain issue. For example, in the case of this research, it can be implied that the text involving anti-trafficking policy exists within the social constructs of anti-prostitution rhetoric in the United States. Therefore, discourse analysis can be applied to the text (legislation, debates, etc) regarding issues of anti-trafficking policy.

A pioneer in understanding the implications of policy framing is Carol Bacchi in her book "Analysing Policy: What's the Problem Represented to Be?". Bacchi's main thesis is that traditional policy analysis views policy as a reaction to a problem but, the What's the Problem (WPR) method states that policies give shape to a problem (Bacchi, 2009). This can ultimately be interpreted as the government is partially responsible for the creation of a problem. For example, Bacchi uses the case of the government sending police to an Indigenous reserve in response to a sexual assault. The WPR method would state that the problem is the government believing that there is a lack of police presence on reserves (Bacchi, 2009). The WPR method states that how the problem is represented creates consequences for how individuals are treated (ex. Drug policies that criminalize addicts) (Bacchi, 2009). Bacchi's WPR method is essential to

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understanding the implications of FOSTA-SESTA and the problem that is created out of this policy (putting sex workers in direct harm by claiming to protect trafficking victims).

In their book, Phillips and Hardy elaborate on how discourse analysis considers the “assumptions concerning the constructivist effects of language” (Phillips & Hardy, 2002). This means that there is a certain degree of assumption that researchers who use discourse analysis must apply when reviewing text. This assumption is supported by empirical evidence that shows the influence of social attitudes on a policy. An example of this could be if you were reviewing an abortion bill from a southern state, the assumption would be that states within the “bible belt” tend to hold a strong pro-life stance on abortion. Therefore, abortion policies from this region of the United States would frame these policies in a way that would resonate with voters who are more likely to hold a pro-life stance (ex. Pointed language, “life or death”)

To expand on Phillips and Hardy's understanding of discourse theory, David Howarth et al. (2000) explains that the meaning/understanding of discourse can change depending on the aspects that make up its identity. This means that the understanding of discourse can shift depending on the social circumstance that the discourse occurs within. Discourse scholars such as Howarth et al. argue that truth is subjective and alternates through languages of social reality.

Traditional discourse theory shows us the power and intent behind language. In politics, issues are framed with the intent to create a narrative that benefits a positive policy outcome. In debates and public forums, politicians are provided with specific talking points in order to promote this narrative. However, traditional discourse theory only looks at the relationship between a subject and the text (discourse) that addresses it and does not address the power structures that said discourse occurs in. Feminist discourse analysis gained traction in the 1970s as feminist scholars began to look at the way that language holds up certain power structures,

painting a narrative of women as powerless. Jean Bethke Elshtain evaluates some of the most common methods of discourse and philosophers (Marx, Hobbes, Plato) to decide on a form of "emancipatory speech" for women (Elshtain, 1982). Elshtain brings attention to the relationship between discourse and power, stating that "language conveys power" (Elshtain, 1982). From this, we can understand that political discourse is dependent on power and social structures that uphold a narrative of women as helpless and that their stories carry little impact on a larger stage. Elshtain draws this perspective by critiquing the methods of Plato and Martin Luther who believed that a woman's narrative held no power outside of the home and would not serve any impact in the agora (public stage) (Elshtain, 1982). Elshtain then sets out to define a new form of discourse that liberates women from this dynamic, as discourse only tells the reality of the oppressor (Elshtain, 1982).

Feminist thinkers must self-consciously and critically confront various traditions of political discourse, feminist, and nonfeminist. There are among us, for example, those who seek solutions to our public and private dilemmas by depriving us of a grammar of moral discourse and forcing all of life under a set of terms denuded of a critical edge. (pg 4)

This observation by Elshtain helps establish that in political discourse women are often regarded as subjects and not individuals with opinions on issues. According to Elshtain, political discourse currently exists to benefit the oppressor and those in power; she defines this as "predatory individualism". Political discourse operates to promote individual interest (maximum impact, interest group claims) and does not consider the political community or civic duty to work towards a civil society (Elshtain, 1982). Elshtain also highlights that political discourse wears different "masks" depending on the subject matter. When speaking on issues that specifically involve women, political discourse wears the mask of purity. This means that the speaker refers to the subject as a perpetual victim and portrays an image of female helplessness

(Elshtain, 1982). We can relate this mask of purity in feminist discourse to Weitzer's oppression paradigm, where the subject is repeatedly victimized by the system.

While Elshtain is unable to establish the ideal definition of feminist discourse, her main finding is that feminist discourse rejects domination (Elshtain, 1982). From this, we can understand that Elshtain's definition of an ideal feminist discourse does not strip autonomy from women and their experiences. Instead of language being a tool for the powerful, feminist discourse gives voice to the oppressed. This form of discourse does not speak for women but instead gives them the power to tell their own stories. Through feminist discourse, there is less need for assumptions in text.

The link between discourse, feminist discourse, and how this relates to sex work policies can be answered by Annette Jolin (1994) who evaluates the longstanding controversy of prostitution. Jolin states that prostitution is historically controversial because it is culturally contradictory. Historically, men have been allowed to practice promiscuity while women have been socially pressured to remain chaste; prostitution defies these cultural norms (Jolin, 1994). The growing visibility of prostitution as a profession created a moral outrage against promiscuity (Jolin, 1994). If we relate these attitudes to Bacchi's WPR method, we can see how prostitution policies can shape the problem as prostitution promotes morally unjust behaviour. As stated by Jolin "prostitution debates tend to emerge in the context of larger social reform movements, occasioned by the need to correct widespread injustices or other social ills [pg 74]" (Jolin, 1994). From this quote, the connection between prostitution policies and the WPR method is clear. In the case of this study, the problem shaped by policymakers is that prostitution facilitates human trafficking.

### ***Feminist Gender Analysis***



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There are a few theoretical approaches to consider when exploring this topic. Firstly, a feminist and gendered approach will be applied to this research question to address that both sex work and human trafficking are fields/issues that overwhelmingly composed of women. Therefore, this research will be using a gendered lens to understand how certain attitudes towards women and sex work embed itself into American culture and how these preconceived notions translate into policy. a constructivist will be the main theoretical approach to address the research questions. By using this approach, we can better understand the attitudes surrounding sex work, while also gaining insight on some of the historical context as to why said attitudes exist Secondly, a constructivist approach is defined as an analysis of the “social constructs” that influence people to act or not act (Parsons, 2017). This research will utilize the “persuasion” mechanism of constructivism to guide the analysis. The persuasion mechanism looks at the methods of language usage and narrative building, “bringing new interpretations into an arena and persuade others to take them up” (Parsons, 2017).

To synthesize the work of the aforementioned scholars, discourse is relative depending on the social circumstances of where it [discourse] is found. This theory can be applied to this research as it relies on the constructivist understanding that social attitudes influence our understandings of various social issues. Discourse theory provides an avenue to explore how text can convey said social attitudes, and its [discourse's] influence. Feminist discourse allows us to evaluate the study based on who is speaking and the power that is implemented through language.

To summarize the findings of this literature review, the key takeaway can be found in Armitage's statement “whoever frames the question wins the argument” (Armitage, 2010). Through the literature discussed, a feminist discourse analysis can be built to conduct this study.

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Building off of Bacchi's argument that politicians create problems out of issues, the study can be framed to understand how moral framing was utilized to create a problem that FOSTA-SESTA could solve. From this literature review, a comprehensive methodological design to understand how the aforementioned concepts influenced the moral framing of FOSTA-SESTA can be established. In the following chapter, this paper will discuss the supporting theories for this research and the methodology to guide the study.

## CHAPTER III. ANALYSIS

### *Hypothesis*

From the literature explored, there are a few research questions to address. The main research question to address is how did moral framing facilitate FOSTA-SESTA's bipartisan success, if at all? Within this question, there are several sub-research questions that we should shed light on. For example, did the language used to frame FOSTA-SESTA cast it as an issue of morality or feminism? Which of these two forms of argumentation was used more during the debates? These questions will help to illuminate the prominence that morality as a frame plays in anti-trafficking policy (an issue that predominantly affects women). Secondly, did the use of emotive language change depending on the gender of the speaker during the legislative debates? Did party alignment also affect this factor?

The hypothesis to be explored is that moral framing was used to facilitate the bipartisan success of FOSTA-SESTA. The literature discussed provides a clear avenue to explore this hypothesis for several reasons. The concept of oppression paradigms explains the cycle of victimization for both sex workers and victims of human trafficking caused by policy decisions that do not benefit either group. As discussed earlier, FOSTA-SESTA operates differently from other anti-sex trafficking legislation due to the direct effects it holds over sex workers in the United States. While the literature has analyzed how attitudes about sex work have influenced anti-trafficking policy in a general sense, there is a lack of information regarding both this specific bill nor an analysis of how a morality politics frame impacts anti-trafficking and prostitution laws. This analysis will take the stance of a feminist discourse analysis in order to understand the strong bipartisan support of FOSTA-SESTA. I believe that this analysis will help to contribute to the literature by providing an insight into the ways sex workers are stigmatized in

social and political arenas. This research can help by furthering the discussion on how morally-framed stigma manifests into policy. It also helps us understand the impact politicians have in framing an issue and how this can influence whether or not it becomes a law.

### ***Methodology: Scope of Analysis and Data Selection***

This research will evaluate the congressional statements and legislative debates of FOSTA-SESTA from January to April 2018, through the scope of discourse and content analysis. There are approximately 68 congressional statements and one Legislative debate available through the ProPublica database and C-SPAN that the researcher will access for their data collection; these records include both the Senate and the House. The reason for this data selection is because it narrows down the statements to ones that occurred during the peak of lobbying for FOSTA-SESTA up until the bill was passed. The open coding of this data collection will review these sources for specific themes and phrasing that frame FOSTA-SESTA as a morality or feminist policy. As stated earlier, language and framing in politics are intentional. Therefore, it is beneficial to code the official press statements made by the sponsors of FOSTA-SESTA to understand the language used during the lobbying of this bill. The coding conducted will consist of both discourse and content analysis.

When reviewing the sources, the analysis will pay attention to language that attempts to frame the issue as either moral or feminist, as well as paying attention to stereotypical or cliché phrasing (ex. Discussing personal stories of trafficking victims, using phrases such as “self-respect”, etc.).<sup>5</sup> The data selection will be coded based on how frequently the speaker uses

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<sup>5</sup> Moral discourse will resemble the phrases mentioned. This also includes any direct references to God or illustrations of purity and innocence. Along with this, the opposite imagery of "dirty" will be recognized as moral discourse. Moral discourse will include statements that discuss a "lost potential" for trafficking victims. As for moral content, the following words will be considered moral words: victim, purity (or innocence), dirty (or filth, stain, etc), God (or Jesus, Lord, etc), self-respect, duty, modern slavery. (Buddle & Knill, 2018)

moral/emotive and feminist language. In order to clearly understand what will be considered moral/emotive or feminist, we will draw on the work of scholars discussed earlier in this paper. Moral/emotive language will resemble language that is religious or faith-based, using these factors as guiding reasons why FOSTA-SESTA should be passed (ex. Referring to trafficking as modern slavery [Bernsten & Jakobsen, 2010]). Moral/emotive language will also include things such as fearmongering and over-exaggeration (with little to no data to support their claims). As there is no clear guideline for categorizing feminist discourse, this study will use Elshtain's thesis that feminist discourse rejects domination. The feminist discourse will look like language that is based on female autonomy (women speaking for women). The key factor to look for when coding the data is that the language used does not victimize the individuals in question.<sup>6</sup>

A helpful piece to refer to from Lombardo et. al (2010) helps to explain the role of discursive dynamics and how this influences the discourse of gender equality. Lombardo et. al highlight that many feminist concepts are interpreted in a variety of ways and many of these run the risk of becoming taboos (Lombardo et. al, 2010). These common taboos address areas such as the patriarchy, the role of elites in gender equality debates, and the importance of incremental change (Lombardo et. al, 2010). Lombardo et. al emphasize that these areas of feminist discourse are not without merit but, the way that they are used in discourse can affect interpretations. This is something that is currently seen in feminist discourse where areas of discourse are interpreted differently (ex. The victim/survivor dichotomy). The relevance of the Lombardo et. al piece to this study is that it justifies the flexibility in identifying feminist discourse and content in the data

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<sup>6</sup> Firstly, it is key to acknowledge that feminist discourse is subjective from one's definition of feminism (See Lombardo, 2010). For this study, Elshtain and Jolin will be used to guide what is considered feminist discourse and content. Feminist discourse will include statements that emphasize the safety of sex workers, does not only refer to women in question as victims or refer to them as helpless, acknowledges that sex work is a valid profession, etc. As for feminist content, these words will include patriarchy, gender, feminism or feminist, equality or inequality, women's movement, and violence against women.

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analysis. In order to 'cast a net' that is wide enough to identify feminist discourse and content being used throughout the data analysis, it is imperative to recognize the need to be fluid in interpreting said data. Examples of words such as empowerment may be more visibly used throughout the data analysis. The reason for this distinction is to ensure that neither feminist or moral discourse is over-represented (or under-represented) in the guidelines for data analysis.

The coding will also pay attention to the gender and party alignment of the speaker to measure how this affects the language being used. The reason for this selection of data is to determine how politicians utilized emotional triggers and morality to build a narrative that would persuade Senators and Congressmen/women to vote in favour of the bill. Donald Schön and Martin Rein identify those policy decisions that are made based on the moral and empirical factors and this school of thought will be used to guide this research. FOSTA-SESTA has established itself through presumptions of sex work and this methodological analysis will look for patterns in language and discourse that reinforce the idea of morality policy. For this study, the researcher will review Congressional records from January to August 2018, as well as the Legislative debate of SESTA, lead by Sheila Jackson Lee.<sup>7</sup>

The data will be separated into the months the statements occurred in order to track if the use of language shifted over time (ex. More moral or more feminist). The data will be coded and charted based on the requirements discussed in the previous section. From the data collected we can then clearly analyze how frequently moral or feminist discourse and content was utilized throughout the data collection period (January 2018 – April 2018). The data collected from each month will be tallied in a chart to graph the use of moral/emotive and feminist content. The discourse coding will be charted to identify the moral or feminist discourse used, the speaker

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<sup>7</sup> The full debate is available on CSPAN.

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(and party alignment), and if the flagged statement is considered moral or feminist. This will be applied to understand how emotive language was used to paint a certain image of sex work and their platforms (ex. BackPage), and how this language was utilized to persuade a bipartisan success. Walton states that value judgment argumentation schemes can use persuasion as a psychological method to sway the opposing side based on assumptions and known negatives (Walton, 2008). As discussed in the literature review, it is not common for politicians to sway on issues if it is politically beneficial for them (Andris, 2015) but, this analysis will provide insight on the potential for language to influence their decisions (opposed to self-interest). From this analysis, we will be able to clearly code the impact language had during the FOSTA-SESTA debates and what this says about the relations between sex workers and the political system. Following the coding analysis, the major findings will be addressed in the following chapter.

## CHAPTER VI. RESULTS

### *Discourse Analysis Results*

*Table 1 - January<sup>8</sup>*

# of Statements Made	# of Moral Statements	# of Feminist Statements	Speakers
14	7	0	Rob Portman [R]

When looking at Table 1, we can see that for the month of January, the Congressional statements made held a dominant moral frame. There were 14 Congressional statements made for the month of January with 7 statements containing a moral frame (50%). As this was in the early months of promoting the bill, statements that were flagged as moral were made by the bill's sponsor, Rob Portman. Portman relied on iterations to create a certain narrative on the issue with statements such as "It [sex trafficking] is a stain on our national character", "it [sex trafficking] has moved from the street corner to the iPhone", sharing victim's stories, and statements referring to helping trafficking survivors reach their "God-given potential". The statements made during this month set the tone for how this policy is discussed in the later months. As it will show in later months, these iterations used by Portman were not challenged by other Congress members for their moral framework.<sup>9</sup>

*Table 2 - February<sup>10</sup>*

# of Statements Made	# of Moral Statements	# of Feminist Statements	Speakers
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<sup>8</sup> Congressional Statements, Accessed via ProPublica: January 3<sup>rd</sup>-January 29<sup>th</sup> 2018.

<sup>9</sup> The full original data collection remains on file with the author at this time and is available upon request.

<sup>10</sup> Congressional Statements, Accessed via ProPublica: February 6<sup>th</sup>-February 28<sup>th</sup> 2018.



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7	3	1	Mimi Walters [R] Carolyn Maloney [D] John Cornyn [R] Ron Wyden [D, Feminist speaker]
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For the month of February, only 7 Congressional statements were made, with 3 of these statements having a moral frame and 1 statement having a feminist frame. During this month, we begin to see representatives using the analogy of sex trafficking as "modern day slavery". The significance of this analogy is that calling trafficking "modern day slavery" has come under criticism by sex work advocates and anti-trafficking activists alike. These reasons include the historical implications, the legal definitions of trafficking and slavery, and how the term "modern slavery" silences and victimizes women, including those who go into the sex industry by choice (Siller, 2016). In the month of February, we also see representatives echoing the concerns of FOSTA-SESTA held by sex workers and other critics of the legislation. Senator Ron Wyden [D] highlights how this bill will only make going after traffickers more difficult by pushing them into the underground. Another interesting use of language during this month was made by Carolyn Maloney [D], who referred to those being trafficked as "victims and minors" – this will be elaborated on in the discussion chapter to elaborate on shifting gendered issues to a gender neutral frame.

*Table 3 - March<sup>11</sup>*

# of Statements Made	# of Moral Statements	# of Feminist Statements	Speakers
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<sup>11</sup> Congressional Statements, Accessed via ProPublica: March 1<sup>st</sup>-March 30<sup>th</sup> 2018.

41	24	1	Rob Portman [R] Mitch McConnell [R] John Cornyn [R] Roger Wicker [R] Dan Sullivan [R] Joni Ernst [R] Michael Crapo [R] Richard Blumenthal [D] Claire McCaskill [D] Heidi Heitkamp [D] Tim Scott [R] Lisa Murkowski [R] Todd Young [R] John Barrasso [R] Tom Cotton [R] John Thune [R] Ann Wagner [R, Feminist speaker]
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March is where we see a significant increase in the number of Congressional statements made. 41 Congressional statements were made throughout the month with 24 statements utilizing a moral frame, and 1 statement that included a feminist frame. March was the month that FOSTA-SESTA would proceed to the House to be voted on, therefore sponsors of this bill were more diligent in promoting it whenever they had the chance. One of the key findings from the March data is that new bipartisan supporters of the Bill who had not made statements in previous months were beginning to echo the language used by Portman (ex. "street corner to smartphone"). Representatives often used language speaking about how human trafficking is a "scourge" to American "civil society". The March data also shows the increase of bipartisanship support for this Bill. While not at parity, the data shows an increase of Democratic representatives adapting a moral framework to address FOSTA-SESTA. The key finding from the March data – which will be elaborated on in the discussion chapter – is the use of language

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that mostly focuses on children as the victims of trafficking, and pays little attention to others who would be affected by the policy. Out of the 41 statements, only one utilized a feminist frame. Ann Wagner [R] made the statement:

It is my dream that one day women and children will be able to collectively say 'Not Me' instead of 'Me Too,' because we worked together to create a safer online environment where their innocence and dignity are protected from sexual exploitation. (Ann Wagner, Congressional Statement, March 23<sup>rd</sup> 2018)

This statement echoes sentiments that prioritize the safety of vulnerable populations and does not paint them as victims. Referencing the MeToo movement sheds light on intersecting social identities (as discussed by Margolis, 2018) that influence political behaviours. While Wagner is a Republican, she is also a woman who can speak to impacts of sexual violence on women's lives; evaluating this as descriptive or substantive representation will be discussed in the following chapter.

*Table 4 - April<sup>12</sup>*

# of Statements Made	# of Moral Statements	# of Feminist Statements	Speakers
14	6	0	Rob Portman [R] Carolyn Maloney [D] Heidi Heitkamp [D] Mark Walker [R] Ted Cruz [R]

After the bill was passed in March, we can see a significant decrease in Congressional statements, bringing the number down to 14. Of these 14 statements, 6 utilized moral framings. The statements made reiterated the sentiments of earlier statements, ie. "this has moved from the

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<sup>12</sup> Congressional Statements, Accessed via ProPublica: April 6<sup>th</sup>-April 27<sup>th</sup> 2018.

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street corner to the smartphone", referring to trafficking as "modern day slavery", and emphasizing the safety of children in anti-trafficking efforts. A unique statement made came from Ted Cruz who stressed the financial costs of caring for trafficking survivors after they are able to escape, "draining the state of more than \$6.5 billion". This draws attention to the true intentions behind supporters of the bill.

*Table 5 - Debate*

# of Statements Made	# of Moral Statements	# of Feminist Statements	Speakers
1 Debate (1 hour long)	25	0	Martha Roby [R] Sheila Jackson Lee [D] Ted Poe [R] Chris Smith [R] Zoe Lofgren [D] Carolyn Maloney [D] Cathy McMorris Rodgers [R] Rick Crawford [R] Ann Wagner [R]

When evaluating the discourse from the Legislative debate, the main finding is that speakers relied heavily on sharing the graphic stories of trafficking survivors. During the debate, we also see an increase of Democrats using morally based language. We see similar language used during Congressional statements such as the role of technology in trafficking and the analogy of "modern slavery". During the debate, we also see the highest increase in emphasizing children as the main population at risk for trafficking. While this is partially true, it takes away the focus that trafficking is a gendered issue and makes it an issue of "protecting our children". Again, this aspect of using a moral frame to shift the issue from a gendered issue to gender-neutral will be elaborated on in the next chapter using literature from Collier (2012) and Jenson (2009).

### *Content Analysis Results*

The content analysis portion of this data collection evaluated how frequently moral or feminist words were used throughout the indicated period. For the month of January, there was zero feminist content found, and 100% of the findings were moral words used throughout the month.

Table 6 - January		
Feminist Content	Moral Content	Speakers
0	Mentions God: 7	Rob Portman [R]
	Uses terms related to filth/dirty: 4	
	Victim: 14	
	Uses terms like evil: 1	

Due to February having a low number of Congressional statements, we can see a decrease in moral content in comparison to January's results. There is also an increase in feminist content, with the use of words such as 'empowerment'. During this month, we also see in the introduction of content such as "modern slavery".

Table 7 - February		
Feminist Content	Moral Content	Speakers
2	Mentions God: 0	Mimi Walters [R]
	Uses terms related to filth/dirty: 0	Carolyn Maloney [D]
	Victim: 2	John Cornyn [R]
	Uses terms like evil: 3	Ron Wyden [D]
	Modern Slavery: 3	

With the increase of statements in March, we also see an increase in both moral and feminist content. Feminist content such as the words "empowerment" referring to empowering

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those who have experienced trafficking was found 4 times. On the other end, moral words were drastically increased.

Table 8 - March		
Feminist Content	Moral Content	Speakers
4	Mentions God: 2	Rob Portman [R]
	Uses terms related to filth/dirty: 5	Mitch McConnell [R]
	Victim: 49	John Cornyn [R]
	Uses terms like evil: 14	Roger Wicker [R]
	Modern Slavery: 1	Dan Sullivan [R]
		Joni Ernst [R]
		Michael Crapo [R]
		Richard Blumenthal [D]
		Claire McCaskill [D]
		Heidi Heitkamp [D]
		Tim Scott [R]
		Lisa Murkowski [R]
		Todd Young [R]
		John Barrasso [R]
		Tom Cotton [R]
		John Thune [R]
		Ann Wagner [R]

While statements decreased during the month of April, the amount of moral content did not shift that much. Modern content such as “victim” was still used frequently throughout Congressional statements.

Table 9 - April		
Feminist Content	Moral Content	Speakers
0	Mentions God: 0	Rob Portman [R]
	Uses terms related to filth/dirty: 1	Carolyn Maloney [D]
	Victim: 35	Heidi Heitkamp [D]
	Uses terms like evil: 4	Mark Walker [R]
	Modern Slavery: 2	Ted Cruz [R]

### *Concluding Results*

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To synthesize the findings of this data collection, after reviewing Congressional statements and one Legislative debate from January to April of 2018 the main finding is that the majority of language used had a moral frame. The moral language was used more commonly by the Republican party, however, this does not discount that the Republican party also utilized a feminist frame as well, with Ann Wagner referencing the MeToo movement. When we look at the partisanship of this Bill, while Republicans more commonly used a moral frame, the Democratic speakers (while fewer in number) adapted the same moral rhetoric as the Republicans. Key phrases used by Rob Portman were echoed by other representatives later on, regardless of party alignment. In some cases, the Democrats introduced moral language that was not already being used (ex. 'modern slavery'). The gender of the speaker did not create as much of a significance as anticipated in the hypothesis. For example, the debate had more female speakers but still heavily relied on typical moral rhetoric, showing that this was the dominant frame regardless of gender. However, there is something to be said about the use of feminist framework by Ann Wagner and the intersecting identities of politics and gender. There is an argument for praxis including both moral and feminist framework.

Some unanticipated findings that have created areas for discussion include the language used focusing on the threats to children – thus shifting this issue away from women who are more likely to be vulnerable to this crime. As stated earlier, there is other feminist based research that evaluates how politicians use language to shift gendered uses to gender-neutral and this will be reviewed in the following chapter. When we look at the relationship between religion and morality in this data analysis, there are direct references to God that have been identified, however, there is also a usage of language that cannot be strictly said to be religious, but clearly has religious influence. Finally, the content and discourse of the data analysis focused heavily on

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the idea of the 'victim' and even the discourse of the formal debate relied heavily on sharing graphic stories of survivors rather than the statistics of the issue. As discussed in the literature review, the moral rhetoric of the 'victim' defines the women in these stories by their trauma and this was frequently found throughout the data analysis.



## CHAPTER V. DISCUSSION

### *Bipartisanship in a Partisan Age*

Throughout this paper, I have discussed the concept of bipartisanship and how it is an unlikely sight in the current US political climate. In the Literature Review, I discussed the relationship between parties and the current state of voting patterns between representatives. The consensus between scholars is that the United States political system is ideologically divided and parties hold loyalties to said ideologies. Often, parties will vote on a specific issue based on their party's ideological values and not their own (Lee, 2009). FOSTA-SESTA stands as an outlier policy as it was well received by both right and left-wing politicians, and the dialogue throughout the data collection period shows both parties acknowledging this. As current US politics dictate, Republicans stand for traditional (in *most* cases, religious) values with minimal government intervention, while Democrats are supposedly more accepting of progressive politics (more government intervention). Given these social environmental factors, the best theoretical explanation for the bipartisan success of FOSTA-SESTA is in the Adris et. al piece. Andris et. al make the argument that there are certain policies and ideological issues where politicians are allowed – even welcomed – to cross party lines and build ideological relationships with the opposing party. The creation of cooperative pairs allows for windows of bipartisanship within Congress.

So how do these cooperative pairs affect gendered issues such as human trafficking? While there is scholarly work to explain the religious influence of sex trafficking and prostitution policies, the area of religious morality concerning issues such as FOSTA-SESTA has yet to be explored. To help understand how value priorities influence partisanship on gendered issues, we must turn to other 'controversial' women's issues. If we turn back to the Literature Review, we

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can see the connection faith-based groups had on hijacking the rhetoric of anti-trafficking debates in the United States, similarly to abortion debates. Carmines et. al also pays attention to the way these issues are communicated to the general public from politicians and the ways this influences the conversation on these issues (Carmines et. al, 2010). Throughout the data collection period, each month included a statement from a sponsor of the bill drawing attention to the bipartisan support of FOSTA-SESTA ("That's a rare thing to have that kind of support. It has the majority of the Republicans on board. It has the majority of the Democrats on board.", Rob Portman, Congressional Statement, January 18<sup>th</sup> 2018). The bill's main sponsor, Rob Portman, continuously drew attention to the bill's bipartisan nature, often referring to it as "our bipartisan bill".

Congressional statements made often referred to a collective 'we' and a sense of moral duty that called immediate action. This along with FOSTA-SESTA having bipartisan sponsors (Rob Portman and Richard Blumenthal), the two politicians were able to appeal to their respective parties. There is also a level of unofficial communications that are not documented in statement records that can be assumed (private meetings or general conversation) that may have attributed to the bipartisan nature of the bill. When we explore the partisan participation of this Bill, the data shows that Democrats used the same moral framework as Republican representatives.

FOSTA-SESTA was widely criticized for being a direct threat to the safety of sex workers and would ultimately put women at risk, with activists advocating for the decriminalization of sex work as the best practice to combat sex trafficking. The Democrat's positive response to FOSTA-SESTA would be considered a right-wing response in comparison to European countries that have implemented progressive anti-trafficking policies that still

protect the rights of sex workers (ex. Belgium). There is no scholarly work to explain the Democratic response to sex worker's rights in the United States but, from the statements documented in Congressional statements, it is fair to assume a level of party influence and cooperative pairings being built. Statements such as "Our bipartisan bill would help prevent the horrific abuse of enslaved men, women, and children permitted by these sites." (Heidi Heitkamp, Congressional Statement, March 21<sup>st</sup> 2018) show that moral statements are not beyond the Democratic party and also played a role in the influence of FOSTA-SESTA. For example, 'modern slavery' has been identified as a moral term that originated from faith-based groups who redefined the issue of sex trafficking (Bernsten & Jakobsten, 2010). However, this religiously based phrase was most commonly used by Democrats during Congressional statements. This shows that while moral statements were not used as frequently by the Democratic party in comparison to their Republican counterparts, there was still a certain level of moral influence throughout the environment of the Democratic party.

When looking at the intersection between gender and party alignment, typically, moral interests was the common ground. For example, it was women of the Democratic party that introduced the moral language of 'modern slavery' into the discussion of FOSTA-SESTA. But, intersecting identities are not limited to this. As mentioned, Ann Wagner utilized a feminist framework when she discussed the success of the MeToo movement and hoped FOSTA-SESTA could create the same momentum (Ann Wagner, Congressional Statement, March 23<sup>rd</sup> 2018). From this statement, we can see how gender influenced language used based on experiences as a woman. However, there are valid critiques regarding if this statement is substantive representation for survivors of trafficking, and women who will be affected by this bill; these issues will be addressed in a later section).

So what does this mean for future partisan culture within the United States? While gendered issues such as abortion have clear partisan lines, the debate regarding anti-trafficking and sex work policies has a clear moral tone. The bipartisan success of FOSTA-SESTA shows the re-emergence of the cooperative pairs within Congress identified by Andris et. al (2015). This shows that the intersection of social identities and partisan behaviours may align in cases of morality.

### *The Role of Religious Language*

This research has paid specific attention to how religion has influenced the rhetoric surrounding both anti-trafficking and sex work within the United States. Paying attention to the role faith-based groups have played in shifting the discourse surrounding this topic, we can see how this influence has translated in recent policy discussions. The results from the data collection can show said religious influence and the way it was utilized in Congressional statements. To begin, a frequently used moral frame used by Rob Portman referenced a "God-given potential" (Rob Portman, Congressional Statement, January 29<sup>th</sup> 2018 & March 13<sup>th</sup> 2018). This frame has clear ties to a religious framework and sends a clear message of religious values entrenched in an issue such as sex trafficking. Referring back to Zimmerman (2010), she discusses the way religious rhetoric is entrenched into political discourse by legitimizing religious actors. By associating a need to take action with a higher purpose (or power), this signifies a sense of religious moral obligation that resonates with both religious party members and the American people. The concept of a "God-given right" aligns with Brewer's (2013) theory that the value of words influence's an individual's perception of an issue. A "God-given right" references both a well-known phrase to American culture (ie. "life, liberty, and the pursuit of happiness") from the Declaration of Independence, but it frames that freedom under the umbrella

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of that liberty being granted by a higher power. This statement can influence the public by insinuating that those who have experienced trafficking are being denied both their civil liberties and a 'greater purpose'. Given the strong ties to religion and religious identity within the United States, statements such as "God-given" and other references to a higher purpose, can resonate and create a powerful narrative of helping trafficking survivors reach said purpose. These types of statements supersede the idea of individual-based morality and instead attempt to resonate with a common collective of being 'God's children'. As stated by Zimmerman, these statements can shift the conversation away from the realities of the issue and instead create a sense of religious moral obligation (Zimmerman, 2010).

Another aspect of religiosity becoming institutionalized within the US political system was the inclusion of faith-based groups within the political sphere. As discussed in the literature, Zimmerman discusses the integration of faith-based groups via federal funding which ultimately gave these groups a larger platform to promote their rhetoric on issues such as sex trafficking. Throughout the data collection, sponsors of the bill highlighted that FOSTA-SESTA had gained the support of faith-based groups. In long lists of various national security groups, anti-trafficking organizations, and various other national and community actors the highlight of faith-based groups is telling. The relationship between religious organizations and the state has redefined how gendered issues are addressed and has refocused the issue into debates on morality. By publically claiming the support of faith-based groups in anti-trafficking policies such as FOSTA-SESTA, sponsors of the bill are legitimizing their input and the way these groups [faith based groups] frame this issue.

The last area to be addressed when reviewing the use of religious discourse and content during Congressional statements and debate is the use of biblical language. Throughout the data

collection period, numerous speakers and sponsors used words that alliterate a greater cultural association. When reviewing the relationship between moral language and religion, there is a connection between the way things are described. While these adjectives may not be noticed to the average US citizen, the sources of these words are rooted in religious undertones. For example, terms such as evil were used frequently throughout the data collection period. While this may not stand out as a polarizing word, it subtly hints at a religious discourse that paints an image of fire and brimstone. Brad McCoy has contributed to literature that evaluates how biblical structures influence modern forms of rhetoric (2003). By using adjectives that have a biblical root, sponsors of the bill can use this framing discreetly while still creating a powerful moral frame. Emotive words such as evil hold a strong place in the human subconscious and can trigger an emotional response from the audience, creating a 'gut reaction' (Macagno, 2010). By using words that hold a strong emotional connection, the speaker can utilize a level of persuasion that typically goes undetected. The use of the word evil was the most commonly used 'biblical' word and created a strong image of what trafficking survivors faced. While evil is not necessarily a wrong word to use (no sane person would describe a human trafficker as anything but), the way the word was utilized created a specific moral frame that drew attention away from the needs of survivors and magnified the threat. "The bill we passed today equips prosecutors to confront human trafficking head-on, and prohibits any website from aiding in the perpetration of this evil." (James Risch, Congressional Statement, March 21<sup>st</sup> 2018). This statement made creates a clear image to the audience of who (sex traffickers) is 'perpetrating evil' (sex trafficking) and creates a mental connection in the mind of the audience.

Evil is not the only biblical word that was utilized throughout the data collection period. Words such as scourge, stain, horrible, predatory, horrendous, horrific, wicked, and heinous were

frequently used during Congressional statements. These words act similarly as the word 'evil', except they arguably create an even stronger mental connotation for the audience. These iterations only continue to sensationalize negative images in the minds of the audience and thus allows the speaker to exploit this. By addressing the 'scourge of sex trafficking' and how it threatens the safety of children, the speaker creates a powerful image and emotive image that ultimately sparks fear in the audience.

A commonly used phrase by Rob Portman and other sponsors of FOSTA-SESTA was "It [sex trafficking] is a stain on our national character". By stating this, Portman can create an emotive connection that implies an idea of the state being 'dirty' and the only way to 'cleanse' the state is to 'cleanse it of evil' (in this case that evil is sex trafficking). In a country as nationalistic as the United States, iterations that associate the state with being dirty are unlikely to be met with positive reception. Therefore, Portman can harness the collective national pride and imply that by not acting against sex trafficking, we are tarnishing the reputation of the country. This sends a powerful message to the audience as it essentially states that the reputation of the United States is on the line, and the only way to save themselves is to act in favour of FOSTA-SESTA. It is a unique way to morally frame an issue and creates a strong reaction from the audience that benefits the speaker. The use of biblical language as a method to moral frame and issue is a subtle but powerful method of argumentation. By using these emotive words, the speaker can create a strong mental image in the minds of the audience, which they are ultimately able to use to their advantage. This is clear in the Congressional statements of FOSTA-SESTA as an effecting form of an argumentation strategy.

### ***Revisiting the 'Victim'***

Reviewing the results of the data, we can see this connection between the usage of victim and other victimizing language and the theories of the aforementioned feminist scholars. The word victim and other victimizing language was used approximately 100 times throughout the data collection period. The constant referral of women and children trapped in sex trafficking as victims created a narrative of the 'moral' obligation the state has as their saviour. Speakers often stressed language that highlighted this victimization. For example, using phrases such as "treat them like the victims they are" (Rob Portman, Congressional Statement, January 9<sup>th</sup> 2018), and "America's families should not be victimized by such evil" (Mitch McConnell, Congressional Statement, March 15<sup>th</sup> 2018). These statements were then supported by the need for government to intervene and 'rescue' these individuals: "This body can no longer sit idly by while federal law provides immunity to evil websites that sell women and children online without any accountability" (Rob Portman, Congressional Statement, January 17<sup>th</sup> 2018), and "There are a lot of children out there who are waiting for our help" (John Thune, Congressional Statement, March 21<sup>st</sup>). These two examples show how this language was strategized to create a narrative of helplessness that only the state was able to solve.

Continuing to feed into that narrative of helplessness, speakers often made statements referencing the "lost potential" of those who have experienced trafficking: "She will never achieve her God-given potential in life because of the trauma that she has experience." (Rob Portman, Congressional Statement, January 9<sup>th</sup>, 2018). The statement of 'achieving a God-given potential' was frequently made throughout the data collection period and feeds into the theory from Spry that women who experience sexual violence have lost their value in a patriarchal society. By making statements that trafficking survivors are unable to reach their potential



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because of the trauma they have faced, the sponsors of this bill openly admit to prescribing these patriarchal values that tie a woman's value to their body.

Another example of victimizing language that can be identified in the data collection is the description made by representatives referring to those who at risk to be trafficked or to those who have been trafficked as 'victims' and 'children' ("victims and minors" Claire Maloney, Congressional Statement, February 21<sup>st</sup>, 2018). This distinction between the populations who have experienced trafficking as either children or 'victims' feeds directly into Weitzer's oppression paradigm as they are no longer viewed as anything besides a 'victim'.

Finally, when reviewing the use of victimizing language used in the Congressional records and debate, it is imperative to pay attention to how frequently the stories of 'victims' were told. When reflecting on what is considered a form of moral discourse, the repeat referencing of the graphic accounts of trafficking survivors played a significant role in this legislation's moral framing. Throughout the data collection period, victim stories were used 16 times to push a moral frame, stressing the obligation the government had in intervening. During the Legislative debate, 6 victim stories were told for the one-hour duration. The significance in the use of these accounts is that it relies on an moral basis to promote the policy, rather than making an argument by using the hard data of trafficking in the United States. By doing this, speakers can use emotional reasoning as an argumentation strategy. Through emotional reasoning, the sponsors of the bill were able to make the argument if you were against FOSTA-SESTA, you were against helping trafficking victims (Clair Maloney, Congressional Statement, Legislative Debate, February 27<sup>th</sup> 2018: "So if you voice against this bill, you are shielding them [sex-selling websites]. If you vote for it, you are protecting our children"). The strategy to use victim stories as a form of argumentation during formal statements not only influenced fellow representatives,

but it also could influence the general public. After the success of FOSTA-SESTA, Rob Portman included the testimonial of a citizen: "And as one mom told me today, 'This means my granddaughter won't have to worry about this issue. It means when my kid goes to the mall, I don't have to worry as much about what might happen, who might try to take her into this web of trafficking.'" (Rob Portman, Congressional Statement, April 11<sup>th</sup> 2018). From this statement, we can determine that the use of victimization had a wide enough influence that it affected both the legislative branches of government and the general public. From this, we can then theorize that representatives had the external influence of their constituents to vote in favour of FOSTA-SESTA.

Relating to the scholars discussed earlier, we can also draw the connection that the frequent use of these graphic cases paints these women as perpetual victims. While without a doubt these women faced indescribable trauma, by constantly sharing this trauma on a public platform, they are only seen as victims used to promote a policy. This strategy, while effective, removed the autonomy of the women who endured these hardships and exploited their trauma. As stated by Nissam-Sabat, these women will only be seen as 'victims' and will not be remembered for the people they were before enduring said trauma (Nissim-Sabat, 2009). The decision to use the cases of victims rather than the data of human trafficking as an argumentation strategy creates a narrative of victimization while blatantly over-looking the individuals who will be affected negatively by the policy: sex workers.

### ***Shifting from a Gendered Issue to Gender-Neutral***

As discussed in the Literature Review and throughout this paper, human trafficking is an issue that predominantly affects women, and anti-trafficking policies predominantly affect sex workers (who are a majority of women). Something that was not accounted for in the

methodology but frequently arose throughout the data collection was the frequent use of language that focused on children being at the highest threat of sex trafficking. As stated earlier, political discourse is not without intention, meaning that every statement is meant to serve a purpose and send a crafted message. Many scholars have made the argument that as governments re-invest in social policy, they have actively erased gender from gendered issues (Collier, 2012). This essentially means that policymakers will use gender-neutral language that shifts the discussion away from the gendered nature of a problem. This shift is also facilitated by the different opinions of feminist activists who advocate for equity in the political sphere versus feminists who wish for equal treatment across the board (Collier, 2012). As countries begin moving towards social investments, there is often pushback from neoliberal and right-leaning politicians who disagree with added government involvement (Jensen, 2009). We can also apply these sentiments to the United States, which has had a very vocal pushback to any government or policy issues that they deem socialist. Both Collier and Jensen have observed that while gender-neutral frameworks are beneficial for social policy success, they often come at the cost of minimizing how these issues specifically affect women.

Relating this to the data, the majority of statements that had a moral framework emphasized the threat trafficking has to children. Each month's data set includes at least one statement that includes how trafficking threatens 'women and children' and that FOSTA-SESTA will protect and support 'women and children'. However, in many cases, only children were addressed (Mitch McConnell, Congressional Statement, March 15<sup>th</sup> 2018: "America's children should not be sold -- online or anywhere else.", Lisa Murkowski, Congressional Statement, March 21<sup>st</sup>, 2018: "This is legislation for the protection of our children, the most vulnerable among us."). As the voting date drew closer, the language used by sponsors began to emphasize

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the threat of children's safety more and more. John Thune's presidential address awaiting the passing of FOSTA-SESTA frequently used a rhetoric of the dangers posed to children. Thune's speech included statements such as "Thousands of children are trafficked every year", and "There are a lot of children out there who are waiting for our help". While both of these statements hold true, these language strategies overlook the population who are most affected by sex trafficking and anti-trafficking policies: women. Referring to the previous section, one statement by John Thune utilizes the victimization of an underage trafficking victim's story as a direct threat.

Mr. President, every day across this country, there's another Desiree being trafficked. Some of these children are not yet teenagers. They should be going to basketball games and birthday parties. Instead, they are being taken to homes and hotels to be violated by strangers. Some, like Desiree, will die there... There are many more Desirees out there in danger, and we have an obligation to do everything we can to protect them (John Thune, Congressional Statement, March 21<sup>st</sup> 2018)

This form of morality language uses fear-mongering to enforce a narrative that benefits the speaker. By emphasizing the emotive response to protect children, the speaker is able to use the audience's emotions to their advantage. If we look at the statement again from the Legislative debate, after hearing victim stories repeatedly in the span of one hour Claire Maloney made the statement "So if you voice against this bill, you are shielding them (sex-selling websites). If you vote for it, you are protecting our children". To reiterate, this paper is not denying that children are also at risk for sex trafficking as there is plenty of data to show that they are often exploited by this crime; approximately 4945 minors were reported as trafficking survivors in 2018 (Polaris, 2018 US National Trafficking Hotline Statistics). The significance is if we continue to look at the numbers, out of the 23,078 survivors identified, 15,042 were women (this also takes into account

the percentage of trafficked minors who were women). This raises the question of why do these politicians shift the language of anti-trafficking policies to be gender-neutral?

As stated earlier, the political climate of a country influences how receptive governments are to social interest policies. By creating a gender-neutral frame to address the issue of anti-trafficking, the United States ultimately plays a role in resisting gender equality in the country. By focusing on children as the main victims of trafficking, policymakers created a more palatable legislation for a political system that tends to resist progressive politics. While the language used in Congressional statements was not entirely gender-neutral, referencing the impact sex-trafficking has on women's lives, by shifting the focus onto children, a larger gap is created by this policy. Policy to address violence against women has been at the forefront of political feminist movements since the second wave, and as attitudes towards sex work have shifted, the way policies addressing these issues have not kept up. Referring back to Ferrell and Pfeffer (2014), this can be the result of the cultural blinders of prostitution policies in the United States. To create an anti-trafficking policy that fully supports and protects women, fundamental rights for sex workers would have to be entrenched in said legislation. However, this would go against the core beliefs of many representatives; we can see this in older anti-trafficking and sex work policies discussed earlier. It is fair to make the argument that shifted the focus to a policy that protects children creates a much more palatable policy for the Senate.

While some might state that knowingly creating a policy that puts individuals (in this case, sex workers) at risk is unlikely, if we refer back to the Nissim-Sabat (2009) piece, there are grounds to assume that this is not always the case. Nissim-Sabat identifies that there are certain levels of victimhood where it is easier to shift the blame on to the said victim. In the case of sex-workers, if they are subjected harm while working, it is easier for law enforcement to hold them

responsible for the violence they have experienced (this also ties into Ferrell & Pfeffer's 'cultural blinders'). Since these women are choosing to participate in this line of work, government officials can create the narrative that they are to blame. This can also be implied due to sponsors of FOSTA-SESTA never formally addressing the concerns sex workers and pro-sex work advocated had regarding the legislation. Rob Portman addressed the "tech community" as a singular body, but did not give sex workers the spotlight to address their issues ("And for those in the tech community who continue to oppose this legislation, I ask you to look into your hearts and think about the impact this is having on families all across the country.", Rob Portman, Congressional Statement, January 9<sup>th</sup>, 2018).

However, it can not be conclusively that the statements evaluated were completely devoid of a feminist framework but, what can be critiqued was how it was utilized. Throughout the entire data collection period, only 2 statements were identified as feminist discourse and feminist content was used 4 times. When reviewing the statements, the feminist content recorded utilized words such as "empowerment" regarding supporting the victims of sex trafficking (statements such as 'this bill will empower victims'). The feminist discourse identified was made by Ann Wagner who referenced the "MeToo" movement, hoping that FOSTA-SESTA would create an environment where vulnerable populations would be protected from sexual violence and sex crimes (Ann Wagner, Congressional Statement, March 23<sup>rd</sup> 2018). While we cannot fully discredit the intention behind these feminist frames, a critical evaluation of said intention must be applied. As mentioned in previous sections, this statement by Wagner referencing the MeToo movement may be an example of descriptive representation. This means that the speaker adopts terminology which aligns with the feminist movement, but does not actively promote a

feminist agenda. In the case of this example, this would mean praising the success of the MeToo movement while promoting a Bill that feminist activists have spoken out against.

The use of the word empowerment was typically used to reference supporting trafficking survivors. This type of support was about aiding trafficking survivors to pursue their assailants in a legal setting (something that was already difficult to accomplish prior to FOSTA-SESTA). The "aid" referenced by sponsors of the bill lifted the immunity held by commercial sex selling sites such as Backpage, meaning that if a trafficking victim was advertised on this platform they would now be able to testify against them in a court of law. This empowerment referenced throughout Congressional statements did not refer to anything besides legal empowerment. The issue with this rhetoric is that it assumes survivors can only be empowered through one avenue. The feminist statements identified do not mention plans to implement sustainable social programs for trafficking survivors to access, such as mental health resources, addictions counselling, or other social programs that will aid in helping them reintegrate into a healthy lifestyle. The feminist frameworks utilized by sponsors of FOSTA-SESTA are commonly identified in sexual violence education as assuming what is best for the victim (Ovenden, 2012).

The shift to a gender-neutral frame, or in the case of FOSTA-SESTA, a demographic shift, creates a policy gap where the demographic most commonly affected by this crime is unaccounted for. By doing this, governments can pass a bill that is ideologically palatable to them, but ultimately causes greater damage in the long run.

## CHAPTER VI. CONCLUSION

### *Objectives and Approach*

The bipartisan success of FOSTA-SESTA was intriguing not only for its unlikely nature but, due to the ever-present critiques of the bill from sex workers and the activist community. Numerous organizations spoke out against this controversial bill, stating that it would only increase the risk of human trafficking by forcing sex workers back onto the streets. FOSTA-SESTA's main target was commercial sex sites (such as Backpage) which allowed for sex workers to advertise on this platform. However, when trafficking victims began to appear on these sites, politicians stepped in. The argument from sex workers fighting for protection stated that these websites allowed for them to work safely. Instead of being out on the street, they were able to solicit safely from their homes. These websites also allowed sex workers to screen potential clients as another safety net. FOSTA-SESTA is yet another example of the growing divide between sex workers and politician's communications. By passing a bill that directly effects sex worker's ability to work in a safe environment, it shows that politicians often favour ideology over decriminalization. By framing the issue of sex trafficking as an issue of moral obligation, the policy creates a large gap in addressing and protecting the demographics who are most likely to fall victim to this crime.

### *Impact of Findings*

Given the evidence of the role religion and faith-based groups have played in shifting the narrative of anti-trafficking in the United States, it did not come as a surprise that the Congressional statements and Legislative debate had resulted in an overwhelming use of moral discourse and content. However, the most impactful findings did not come from factors that were anticipated in the hypothesis of this study. Firstly, the findings showed an active use of language



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that affirmed a new frame which shifts sex trafficking from a gendered issue to a threat to children. Sex trafficking is typically regarded as a gendered issue as it predominantly affects women. However, the findings of this study showed that the language used framed the issue as children being the most at risk for sex trafficking. This narrative switch not only shifted the spotlight on a gendered issue but, was able to utilize a strong moral response. The discourse around the issue transitioned from 'stop sex trafficking' to 'protect our children', which triggers a much more powerful emotional response from the audience. The response to this discourse of 'protecting children' was so impactful that it even resulted in statements such as "So if you voice against this bill, you are shielding them (sex-selling websites). If you vote for it, you are protecting our children" (Claire Maloney, Legislative Debate, February 27<sup>th</sup>, 2018). Statements like these create a powerful sense of fear-mongering that assumes if someone has a critique of FOSTA-SESTA, they are putting children in harm's way.

When we look at the cycle of victimization faced by both sex workers and trafficking survivors, the findings of this study show that their 'victimhood' was utilized to sell a narrative. The use of 'victim stories' throughout the data collection was rampant and create a strong moral discourse. By using these stories to promote the bill, opposed to using data on trafficking, the sponsors of the bill were able to create a rhetoric that if 'we don't act, more children will be hurt'. This then creates a narrative of the helpless victim that only the state can save. The use of these stories has also contributed to viewing these survivors as perpetual victims.

The use of these moral statements and the emphasis of collective action contributed to the bipartisan acceptance of this bill. In comparison to other Western countries, the idea of decriminalization has not been on the table for the Democratic party. The use of moral language

that was adopted by the Democratic party shows that trafficking is viewed as an issue of morality to both sides of the political spectrum.

### ***Limitations and Invitations for Further Research***

This study evaluated the moral language of one anti-trafficking policy for a limited period of time. It is a fair assumption that a longer study, that takes into account multiple anti-trafficking and sex work policies would potentially show if a moral frame was adopted from when the Bill was first introduced. This study only evaluated official Congressional statements and debates for the data collection, this limitation restricts the discourse coded as well. A study that includes press releases and community outreach by sponsors of the Bill could show a difference in how the issue is framed based on the audience.

Areas of research related to this topic that I invite other researchers to explore include evaluating the role faith-based NGOs have had in the anti-trafficking debate and how much potential harm they have caused. As faith-based groups have redirected the attention of anti-trafficking efforts to be entirely focused on sex trafficking, there is a large gap in how policies address other forms of trafficking. Additionally, FOSTA-SESTA has been criticized for obstructing freedom of speech on the internet since it was passed by causing excessive censorship online. As discussed, the Democratic party's decision to align with a moral frame regarding anti-trafficking is a surprising decision. I invite other researchers to look into the potential decision making factors that influenced this party to take this stance. FOSTA-SESTA has become a monumental bill for both good and bad reasons, while this study only addressed one aspect of this legislation, I invite other researchers to dissect this anomaly of a policy.

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